

**REMARKS**

**I. INTRODUCTION**

Claims 89-107 and 136-152 are under consideration in the above-referenced application. Applicant appreciate the Examiner's indication that claims 107 and 153 contain allowable subject matter if rewritten in independent form.

**II. REJECTION UNDER 35 U.S.C. §§ 102(e) AND 103(a) SHOULD BE WITHDRAWN**

Claims 89-99, 102-104, 106, 136-145, 148-150, 152 and 154 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,983,267 issued to Shklar (the "Shklar Patent"). Claims 100, 101, 105, 146, 147 and 151 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the Shklar Patent, in view of U.S. Patent No. 5,978,842 issued to Noble et al. (the "Noble Patent").

The present application was filed on January 26, 1997. The Shklar Patent, issued on November 9, 1999 and filed with the U.S. Patent and Trademark Office on September 23, 1997, is relied on by the Examiner as a reference under 35 U.S.C. § 102(e) for rejecting claims 89-99, 102-104, 106, 136-145, 148-150, 152 and 154 of the present application under 35 U.S.C. § 102(e) as being allegedly anticipated by this publication. In addition, the Shklar Patent was relied on by the Examiner as a primary reference to reject claims 97100, 101, 105, 146, 147 and 151 under 35 U.S.C. § 103(a) as being allegedly obvious over this reference, in alleged combination with the Noble Patent.

Pursuant to 37 C.F.R. § 1.131, the Shklar Patent can be antedated by filing a declaration establishing that the date of the present invention was earlier than the earliest effective 35 U.S.C. § 102(e) date of the Shklar Patent, and that Applicants worked diligently

to reduce the present application to practice thereafter (i.e., up to the filing of the present application). See 37 C.F.R. § 1.131. The earliest effective filing date of the Shklar Patent is the filing date of the U.S. Patent Application Serial No. 08/936,111 from which the Shklar Patent issued, i.e., September 23, 1997.

Applicants hereby submit a declarations a declaration pursuant to 37 C.F.R. § 1.131 executed by the inventors of the present application in which it is confirmed that the invention recited at least in currently-pending independent claims 89, 136 and 154 of the above-referenced has been invented by Applicants prior to September 23, 1997, i.e., the earliest effective § 102(e) filing date of the Shklar Patent, and that Applicants worked diligently to reduce the present application to practice thereafter (i.e., up to the filing of the present application). The enclosed executed declaration provides detailed facts regarding the diligence to reduce the claimed subject matter as recited in these independent claims to practice from before the filing date of the application from which the Shklar Patent issues, i.e., before September 23, 1997 until January 26, 1998 (the date that the present application was filed).

Thus, Applicants respectfully confirm that the invention recited at least in currently-pending independent claims 89, 136 and 154 of the above-referenced has been invented by Applicants prior to September 23, 1997, i.e., the earliest effective § 102(e) filing date of the Shklar Patent, and that Applicants worked diligently to reduce the present application to practice thereafter (i.e., up to the filing of the present application).

Accordingly, the Shklar Patent is not applicable for rejecting independent claims 89, 136 and 154 and claims which depend therefrom under 35 U.S.C. § 102(e) and also under 35 U.S.C. § 103(a). Further, without combining with the Shklar Patent, the

Noble Patent fails to teach or suggest the subject matter recited in independent claims 89, 136 and 154 and the claims which depend therefrom, and the Examiner does not contend that it does.


Therefore, Applicants respectfully assert that the Shklar Patent has been antedated and cannot be used for a rejection of independent claims 89, 136 and 154, as well as the claims which depend therefrom, under 35 U.S.C. §§ 102(e) and 103(a). For at least this reason, Applicants respectfully request that the rejection of claims 89-99, 102-104, 106, 136-145, 148-150, 152 and 154 under 35 U.S.C. § 102(e) as allegedly being anticipated by the Shklar Patent, and of claims 100, 101, 105, 146, 147 and 151 under 35 U.S.C. § 103(a) as being allegedly unpatentable over the Shklar Patent in combination with the Noble Patent, be withdrawn.

### III. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all pending claims 89-107 and 136-152 are in condition for allowance. Prompt consideration, reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Dated: August 31, 2009



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